

To: Morales, Javier[Morales.Javier@epa.gov]
From: Vergeront, Julie
Sent: Tue 3/29/2016 7:52:17 PM
Subject: RE: Multistar Industries

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Mike,

You are correct that my email asking for the information and that it be certified does not legally compel Multistar to certify the information it has provided as true, accurate, and complete.

EPA does have information gathering authority under Section 114 of the Clean Air Act and EPA believes we have inherent authority under this Section 114 to require responses to our information requests to be certified.

The draft Compliance Order under Section 113 of the Clean Air Act that Multistar had been willing to sign two weeks ago also required Multistar to certify that all information submitted under that order is true, accurate, and complete.

Note that EPA also has authority under Section 114 of the Clean Air Act to investigate the veracity of the sales information Multistar has provided by contacting Multistar's customers.

I am hoping we can avoid either of the two options I have outlined above and that Multistar will certify as true accurate, and complete the information it believes establishes it is entitled to rely on OSHA's retail exemption from the PSM requirements.

Please let me know by the end of the day today if that certification will not be forthcoming so that EPA can pursue our other options for assuring that Multistar is legally entitled to rely on the retail exemption.

Whether Multistar is a Program 2 or Program 3 facility, Multistar's noncompliance with the Risk Management Program requirements of 40 C.F.R.

Part 68 is longstanding, extensive, and serious and requires its immediate attention. Of particular concern, despite more than nine months since EPA's June 29, 2015 letter to Multistar, the company still has not demonstrated to EPA that it has installed locks on the valves of its ammonia storage tanks and adequate barriers around the tanks to avoid damage by trucks and other vehicles, as required by 40 C.F.R. 68.48(b) (Program 2) or 40 CFR 68.65(d)(2)(Program 3) and the American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia, ANSI K61.1-1999 (recently revised to CGA G-2.1-2014).

Sincerely,

Julie A. Vergeront

Assistant Regional Counsel

EPA Region 10

1200 Sixth Avenue, Suite 900

Seattle, WA 98101

206-553-1497

vergeront.julie@epa.gov

From: Michael B. Gillett [mailto:mgillett@gillettlawfirm.com]

Sent: Tuesday, March 29, 2016 9:21 AM

To: Vergeront, Julie

Subject: RE: Multistar Industries

Julie,

I am back in my office today. I believe that the tanks were all full of ammonia. I will confirm with Multistar whether my understanding is correct.

I realize that you would like a certification of truth, accuracy and completeness. I am not aware, however, of any legal authority for that request. If I am mistaken, please let me know.

Michael B. Gillett

The Gillett Law Firm

12535 15th Avenue N.E., Suite 212

Seattle, Washington 98125-4095

Phone: (206) 706-4692

Fax: (206) 706-4762

Cell: (206) 399-4011

Email: Michael B. Gillett (mgillett@gillettlawfirm.com)

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From: Vergeront, Julie [mailto:Vergeront.Julie@epa.gov]

Sent: Monday, March 28, 2016 12:45 PM

To: Michael B. Gillett <mgillett@gillettlawfirm.com>
Subject: FW: Multistar Industries

Mike,

I have not yet received the information requested below. Please let me know immediately when we can expect to receive it.

Sincerely,

Julie A. Vergeront

Assistant Regional Counsel

EPA Region 10

1200 Sixth Avenue, Suite 900

Seattle, WA 98101

206-553-1497

vergeront.julie@epa.gov

From: Vergeront, Julie
Sent: Wednesday, March 23, 2016 11:41 AM
To: 'Michael B. Gillett' <mgillett@gillettlawfirm.com>
Subject: RE: Multistar Industries

Mike,

It is unclear from the documents Multistar provided whether the tank rentals reflected as retail sales all reflect tanks filled with ammonia or whether all or some of the tank rentals were of empty tanks.

Under the attached OSHA interpretation, only income the facility receives from sales of the chemical covered under the PSM standard (here, ammonia) are considered in determining whether the facility qualifies for the retail exemption to OSHA's PSM requirements.

We ask that Multistar clarify this issue. Please provide a response by tomorrow, Thursday, March 24th. This clarification should also be addressed by a certification by Multistar as to truth, accuracy and completeness.

Please let me know if you have any questions.

Regards,

Julie A. Vergeront

Assistant Regional Counsel

EPA Region 10

1200 Sixth Avenue, Suite 900

Seattle, WA 98101

206-553-1497

vergeront.julie@epa.gov

From: Michael B. Gillett [<mailto:mgillett@gillettlawfirm.com>]

Sent: Tuesday, March 22, 2016 2:57 PM

To: Vergeront, Julie <Vergeront.Julie@epa.gov>

Subject: Multistar Industries

Julie,

The attached link will take you to the retail facility documentation:

https://onedrive.live.com/redir?resid=888D9DD6002616B3!5199&authkey=!ABTemldc_DzXRjs&ithint=folder

Michael B. Gillett

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